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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/044,679

01/11/2002

Mark S. Craig

9713

24919

7590

12/31/2008

MCATTEE & TAFT

TENTH FLOOR, TWO LEADERSHIP SQUARE

211 NORTH ROBINSON

OKLAHOMA CITY, OK 73102

EXAMINER

DASS, HARISH T

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

12/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/044,679

**Applicant(s)**

CRAIG ET AL.

**Examiner**

HARISH T. DASS

**Art Unit**

3692

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 2-6, 13-15, 18-21 and 23.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see paper number 20081006.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

/Harish T Dass/  
Primary Examiner, Art Unit 3692

Continuation of 13. Other: Amendments to the claims are entered and the claims , 1, 7-12, 16-17, 22, 24 are canceled.

Applicant's arguments filed have been fully considered but they are not persuasive. Prosecution is closed when final office action was issued.

Response to Applicant's argument that the Final Office action (Paper # 20081006) is improper, Examiner does not agree. It is a proper Final Office Action, because, ground of rejection of final action is not change. See ground of rejection of Final Office Action (see pages 2, 9, 15 of paper # 20081006) is same as ground of rejection of Non-Final Action (see pages 2, 9, 15 of paper # 20080326), where:

Claims 1-7, 18-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. in view of Kern.

Claims 11-17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan in view of Green et al. and Kern.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan and Kern, and further in view of Green et al.

For Paper number see page 1 of office action (Office Action Summary - PTOL-326) bottom right.

In response to Applicant's argument "Official Notice", that the Examiner has provided an evidence to sustain his of Official Notice". See MPEP 2144.03. Applicant has never adequately traversed the Examiner's official note, however, the Examiner provided the evidence to support his official notice per MPEP guideline (in response to applicant's argument 07/03/2008), and made the action final (MPEP 2144.03 (d)).

In response to Applicant's argument rejection of the claims, the Examiner has provided prior arts read on claimed limitations and complete prima facie case and stands by the final rejection.

Note: The applicant has canceled claims 1, 7-12, 16-17, 22, 24.

Claims 2-6, 13-15, 18-21, 23 are pending.